



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Order 96-11-5

Served: November 18, 1996

Issued by the Department of Transportation
on the 12th day of November, 1996

Applications of

**America West Airlines, Inc.
American Airlines, Inc.
Federal Express Corporation
Fine Airlines, Inc.
Gemini Air Cargo LLC
Northwest Airlines, Inc.**

**Polar Air Cargo, Inc.
Tower Air, Inc.
United Air Lines, Inc. and Thai Airways
International Public Company Limited
United Air Lines, Inc.**

Dockets OST-95-715

**OST-96-1861
OST-96-1708(47386)
OST-96-1770(49285)
OST-96-1736
OST-96-1606
OST-95-709
OST-96-1849
OST-96-1647(46175)
OST-96-1410**

**OST-96-1554(50398)
OST-95-299**

for exemptions or authorities under 49 U.S.C. section
40109 and the orders and regulations of the Department
of Transportation

ORDER

The captioned U.S. air carriers and foreign air carriers have applied for various forms of authority or relief from Title 49 of the U.S. Code or regulations or orders of the Department in order to perform the air transportation activities shown in the attached Notices of Action Taken. Except as noted, no answers were filed to these requests. Because of the imminence of these operations, we approved them by telephone, subject to adherence, by each applicant, to the conditions set forth in its certificate(s) of public convenience and necessity, and/or conditions attached.

We carefully considered the information set forth in each application described in the attached Notices of Action Taken, and we found that each of the proposed operations was consistent with the public interest and was consistent with an applicable bilateral aviation agreement and/or the aviation relationship between the United States and the foreign country involved, that each applicant was qualified to perform its proposed operations, and that each application should be approved.

Under authority assigned by the Department in its Regulations, 14 CFR Part 385, we found that for each operation (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption or authority was consistent with the public interest; and (3) grant of this authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.¹

ACCORDINGLY,

1. We confirm the actions described in the attached Notices of Action Taken, which granted the referenced U.S. and foreign air carriers (1) exemptions from the provisions of Sections 41101 and 41301, and where necessary 41504, or as noted in the attached notices, other sections of Title 49 U.S.C.; or (2) relief or authorizations as provided for under regulations or orders of the Department, to the applicants to perform the operations described in the attached Notices of Action Taken;
2. In the conduct of the service, each applicant was to adhere to the conditions set forth in the Appendix, and to any other conditions as noted in the attached Notices of Action Taken;
3. To the extent not granted, or explicitly deferred as noted in the attached Notices of Action Taken, these applications are denied; and
4. We may amend, modify, or revoke this order at any time without hearing.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.50, may file their petitions within ten (10) days after the date of service of this order. The filing of a petition for review of a particular action shall affect this order only as it concerns that action.

¹ On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found that each U.S. and foreign air carrier applicant for an operating exemption is qualified to provide the services authorized.

These actions were effective when taken, and the filing of a petition for review will not alter their effectiveness.

By:

PAUL L. GRETCH
Director
Office of International Aviation

(SEAL)

Appendix

U.S. Carrier Standard Exemption Conditions

In the conduct of the operations authorized by the attached order, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with the requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted or confirmed by the attached order shall be effective only during the period when the holder is in compliance with the conditions imposed above.

WAIVER
NOTICE OF ACTION TAKEN

October 11, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of **America West Airlines, Inc.** filed **9/12/96** in Docket **OST-95-715** for:

XX Waiver of 14 CFR 377.10(c)(1)

America West seeks waiver of the 60-day advance filing requirement for renewal of its pendente lite exemption authority to serve the Las Vegas-Vancouver market, thereby enabling it to continue serving the route pending final Department action on its certificate application in this docket. America West's renewal application was filed September 12, 1996, less than 60 days before expiration of the current exemption authority (October 18, 1996).

Applicant rep.: **Joshua Romanow, 202-775-9800** DOT analyst: **Sylvia Moore, 202-366-6519**

DISPOSITION

XX Waiver granted

The above action was effective when taken: **October 11, 1996**

XX Under assigned authority (14 CFR 385) by:

*Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)*

Remarks: Action here is limited to America West's request for waiver. Action on the merits of the renewal application remains pending.

NOTICE OF ACTION TAKEN

NEW

October 23, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of **American Airlines, Inc.** filed **October 10, 1996** in Docket **OST-96-1861** for:

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between Los Angeles, California, and Vancouver, British Columbia, Canada. American plans to operate this service pursuant to a code-share arrangement with Canadian Airlines International Ltd (CAI). Under the arrangement, American would place its "AA" designator code on the Los Angeles-Vancouver flights operated by CAI. American states that it plans to begin the proposed operations November 1, 1996. American requests a waiver as to the filing of illustrative data for this application, since the services at issue will be operated by CAI, displaying American's code.

Applicant rep.: Carl B. Nelson, Jr. (202) 496-5647 DOT Analyst: Linda Senese (202) 366-2367

DISPOSITION

XX GRANTED (subject to conditions, see below)

The above action was effective when taken: October 23, 1996 through October 23, 1997.

XX Under assigned authority (14 385) by:

PAUL L. GRETCH, Director

Office of International Aviation

(Petitions for review may be filed from now until 10 days after the confirming order/letter issues. Filing of a petition shall not stay the effectiveness of this action.)

XX Authority granted is consistent with the 1995 U.S.-Canada Air Transport Agreement.

Except to the extent exempted or waived, this authority is subject to the terms, conditions and limitations

indicated: **XX** Standard exemption conditions (attached or posted here)

XX Holder's certificate of public convenience and necessity

Special Conditions: Grant of this authority is subject to the limitations and conditions contained in and attached to the American/CAI Commercial Antitrust Immunity Case, Order 96-7-21, as well as the 1995 U.S.-Canada Air Transport Agreement. The code-sharing operations authorized herein must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's

regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out

(See Reverse Side)

such service in computer reservation systems and elsewhere, that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger (*i.e.* the ticket) and that the operator shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose air space the Federal Aviation Administration has issued a flight prohibition.

We acted on this application without awaiting the expiration of the 15-day answer period with the consent of all parties served.

RENEW

NOTICE OF ACTION TAKEN

October 11, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Federal Express Corporation filed 9/16/96 in Docket OST-96-1708 (47386) for:

XX Exemption for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between San Juan, Puerto Rico, on the one hand, and Barbados, and Trinidad and Tobago, on the other.

Applicant rep.: Nathaniel Breed, 202-663-8078 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: October 11, 1996, through October 11, 1998

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the aviation agreements between the United States and Barbados, and the United States and Trinidad and Tobago.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

RENEW

NOTICE OF ACTION TAKEN

October 11, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Fine Airlines, Inc. filed 9/25/96 in Docket OST-96-1770 (49285) for:

XX Exemption for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between Miami, Florida, and Caracas and Maracaibo, Venezuela.

Applicant rep.: Jeffrey N. Shane, 202-663-6000 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: October 11, 1996, through October 11, 1998

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the aviation agreement between the United States and Venezuela.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Remarks: The U.S.-Venezuela aviation agreement does not provide for coterminization of Caracas and Maracaibo. These points may only be served as separate terminal points.

NEW

NOTICE OF ACTION TAKEN

October 24, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Gemini Air Cargo LLC filed 9/23/96 in Docket OST-96-1736 for:
amended 9/24/96

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between New York, New York; Los Angeles and San Francisco, California; and Chicago, Illinois, on the one hand, and Seoul, Korea, on the other.

Applicant rep.: Moffett B. Roller, 202-822-9070 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: October 24, 1996, through October 24, 1997

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the aviation agreement between the United States and Korea.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

C O R R E C T E D C O P Y *

WAIVER

NOTICE OF ACTION TAKEN

October 29, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Northwest Airlines, Inc. filed 9/9/96 in Docket OST-95-709 & OST-96-1606 for:

XX Waiver of 14 CFR 377.10(c)(1)

Northwest seeks waiver of the 60-day advance filing requirement for renewal of its pendente lite exemption authority to serve the Los Angeles-Vancouver market, and renewal of its allocation of two U.S.-Vancouver frequencies, thereby enabling it to continue serving the route pending final Department action on its certificate application in OST-95-709. Northwest's renewal application was filed September 9, 1996, less than 60 days before expiration of its current exemption authority (October 18, 1996).

Applicant rep.: Megan Rae Poldy, 202-842-3193 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX Waiver granted

The above action was effective when taken: October 11, 1996

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

Remarks: Action here is limited to Northwest's request for waiver. Action on the merits of the renewal application remains pending.

*Corrects Notice of Action Taken dated October 11, 1996, to reflect the correct docket number

OST-96-1606 instead of OST-95-1606.

NEW

NOTICE OF ACTION TAKEN

October 24, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Polar Air Cargo, Inc. filed 10/7/96 in Docket OST-96-1849 for:

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Integrate its existing authority to provide scheduled foreign air transportation of property and mail under its certificates of public convenience and necessity for Routes 651, 696, and 705, and under the exemption authority it holds to permit foreign air transportation services involving any points named on the above certificates and exemptions to the fullest extent permitted by the applicable bilateral agreements.

Applicant rep.: Alfred Eichenlaub, 202-637-9034 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (Subject to conditions, see below)*

The above action was effective when taken: October 24, 1996, through October 24, 1997

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity
XX Standard Exemption Conditions (attached)

(See Reverse Side)

Conditions: The route integration authority granted is subject to the condition that any service under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon Polar additional rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Polar notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in Polar's authority by virtue of the route integration exemption granted here, but that are not then being used by Polar, the holding of such authority by route integration will not be considered as providing any preference for Polar in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

RENEW

NOTICE OF ACTION TAKEN

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Tower Air, Inc. filed 8/14/96 in Docket OST-96-1647 (46175) for:

XX Exemption for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between New York, New York, and Paris, France.

Applicant rep.: Stephen L. Gelband, 202-337-6200 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: October 11, 1996, through October 11, 1998

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the overall state of aviation relations between the United States and France.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

RENEW & AMEND

NOTICE OF ACTION TAKEN

October 15, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of United Air Lines, Inc. filed 7/16/96 in Docket OST-96-1554 (50398) for:

XX Exemption for two years under 49 U.S.C. 40109 to provide the following service:

Renew scheduled foreign air transportation of persons, property, and mail between a point or points in the United States, on the one hand, and Almaty, Kazakhstan; Kiev, Ukraine; Minsk, Belarus; Tashkent, Uzbekistan; Tallinn, Estonia; Vilnius, Lithuania; Asmara, Eritrea; Dar es Salaam, Tanzania; Malta; Tunis, Tunisia; and Thessaloniki, Greece, on the other, via Frankfurt, Germany. **Amend** authority to permit services to be operated via all points in Germany, rather than Frankfurt only. United plans to operate these services pursuant to a code-share arrangement with Lufthansa German Airlines.

United already holds certificate authority to serve Kiev, Ukraine, via Frankfurt by Order 95-7-36. United included Kiev in its exemption application so that it may serve Kiev via any point in Germany.

Applicant rep.: Joel Burton, 202-636-9130 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (subject to conditions; see below)*

The above action was effective when taken: October 11, 1996, through October 11, 1998

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the 1990 U.S-U.S.S.R. aviation agreement which governs air services between the United States and Kazakhstan, Belarus, and Uzbekistan; the aviation agreement between the United States and Greece; and the overall state of aviation relations between the United States and Estonia, Lithuania, Eritrea, Tanzania, Malta, and Tunisia.

(See Reverse Side)

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Conditions: The code-sharing operations authorized herein must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, and that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger (*i.e.*, the ticket) and that the operator shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

United has been allocated 3.5 frequencies for its U.S.-Ukraine third country code-share services. (Order 95-7-36 and renewed August 29, 1996. See Order 96-9-11). We subjected the authority to serve Kiev by this notice to the frequency limitations and conditions set forth in Order 96-9-11.

Remarks: The authority granted is coextensive with the duration of the code-share authority granted Lufthansa on October 11, 1996.

The authority granted here had been kept in force beyond its prescribed expiration date (September 22, 1996) pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), as implemented by 14 CFR Part 377, pending action on United's timely filed renewal application.

NEW

NOTICE OF ACTION TAKEN

October 18, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Joint Application of **UNITED AIR LINES, INC. and THAI AIRWAYS INTERNATIONAL PUBLIC COMPANY LIMITED** filed **5/28/96** in Docket **OST-96-1410** for:

XX Exemption for Thai Airways for two years under 49 U.S.C. 40109 (a) to engage in scheduled foreign air transportation of persons, property and mail between Thailand and the additional coterminal points of Chicago, Denver, Las Vegas, New York/Newark, San Francisco and Washington, D.C., and to serve Seattle as a coterminal point with Los Angeles; (b) to serve Thailand-San Francisco market via Taipei without local traffic rights between Taipei and San Francisco; and (c) to serve the Thailand-Washington, D.C. market via Paris without local traffic rights between Washington, D.C. and Paris under a code-share arrangement with United Air Lines, Inc.

XX Statement of Authorization for two years for Thai Airways under Part 212 of the Department's regulations in order to put United's airline designator code on Thai Airways' Hong Kong-Bangkok, Taipei-Bangkok, and Tokyo-Phuket flights.

XX Statement of Authorization for two years for United Air Lines under Part 207 of the Department's regulations in order to put Thai Airways' airline designator code on United's flights between Los Angeles and Chicago, Denver, Las Vegas, New York/Newark, San Francisco, and Seattle; and between Taipei and San Francisco and Paris and Washington.

Applicant reps: **Jeffrey Manley (202) 637-9057 (UA)** DOT Analyst: **Terri Bingham (202) 366-2390**
Mark Bisnow (202) 966-1200 (Thai Airways)

DISPOSITION

XX **Granted Exemption authority to Thai Airways and Statement of Authorization to United (Subject to Conditions, See Remarks Below)**

XX **Balance of Application (Statement of Authorization to Thai Airways) Deferred**

XX **Request for Authority for longer than one year Dismissed**

The above action was effective when taken: **October 18, 1996,** thru **October 18, 1997**

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now
until 10 days after the confirming
issues. Filing of a petition

order/letter

**shall not stay the
action.)**

effectiveness of this

(See Reverse Side)

XX Authority granted is consistent with the aviation agreement between the United States and Thailand.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificate of public convenience and necessity (United)**

XX Holder's foreign air carrier permit (Thai Airways)

XX Standard Exemption Conditions (attached)

Remarks: The exemption authority granted is subject to the condition that the services provided are conducted under a code-share arrangement with United Air Lines on flights operated by United.

The code-share operations authorized are subject to the condition that the carriers comply with the provisions of 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted, and the further condition that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, and that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger, (*i.e.*, the ticket).

The carriers' request for longer term authority (*i.e.*, two years) is dismissed without prejudice to refiling for renewal after one year.

The joint applicants' request to conduct code-share operations on United's flights was not contested. We will handle the remainder of the application by separate order.

CORRECTED COPY*

RENEW

NOTICE OF ACTION TAKEN

October 31, 1996

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of **United Air Lines, Inc.** filed **7/3/96** in Docket **OST-95-299** for:

XX *Renew for two years exemption under 49 U.S.C. 40109 to provide the following service:*

Scheduled foreign air transportation of persons, property, and mail between Miami, Florida, and Bonaire, Netherlands Antilles. United intends to operate this service pursuant to a code-share arrangement with ALM Antillean Airlines. United also requests authority to integrate these services with its authority on Routes 57 and 632, and with other existing authority to enable United to coterminalize its Bonaire services with other Caribbean points, including Curacao, Port-au-Prince, and Aruba.

Applicant rep.: **Joel Burton, 202-636-9130** DOT analyst: **Sylvia Moore, 202-366-6519**

DISPOSITION

XX *Granted (in part) (subject to conditions; see below)*

XX *Balance dismissed*

The above action was effective when taken: **October 11, 1996,** *through* **September 27, 1997**

XX *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)*

XX *Authority granted is consistent with the overall state of aviation relations between the United States and the Netherlands.*

*Corrects Notice of Action Taken dated October 15, 1996, to reflect the correct docket number

OST-95-299 instead of OST-96-299.

(See Reverse Side)

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Conditions: The code-sharing operations authorized herein must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, and that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger (*i.e.*, the ticket) and that the operator shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

The route integration authority granted is subject to the condition that any service under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon United additional rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Remarks: The authority granted is coextensive with the duration of the code-share authority granted ALM on September 20, 1996.

The authority granted here had been kept in force beyond its prescribed expiration date (September 9, 1996) pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), as implemented by 14 CFR Part 377, pending action on United's timely filed renewal application.

The balance of United's application (i.e., for the second year) is dismissed without prejudice to refiling.